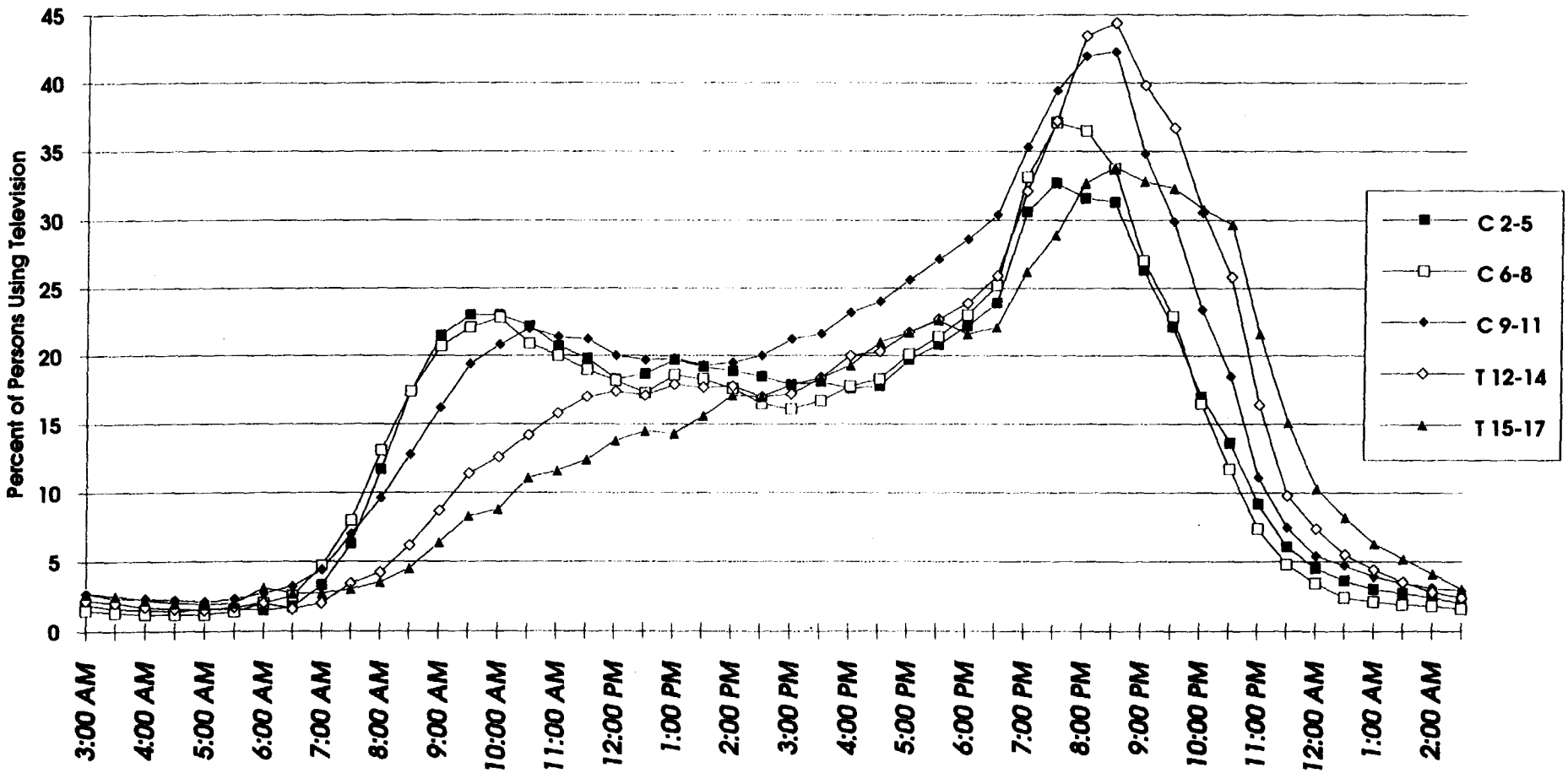
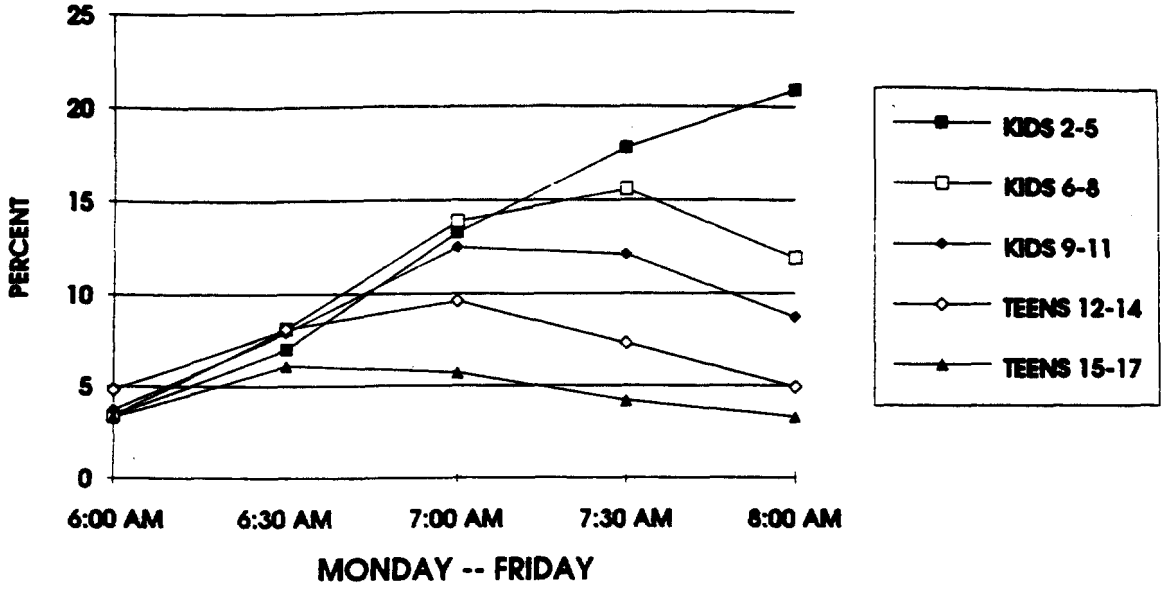
TV Usage: Children and Teens, Sunday



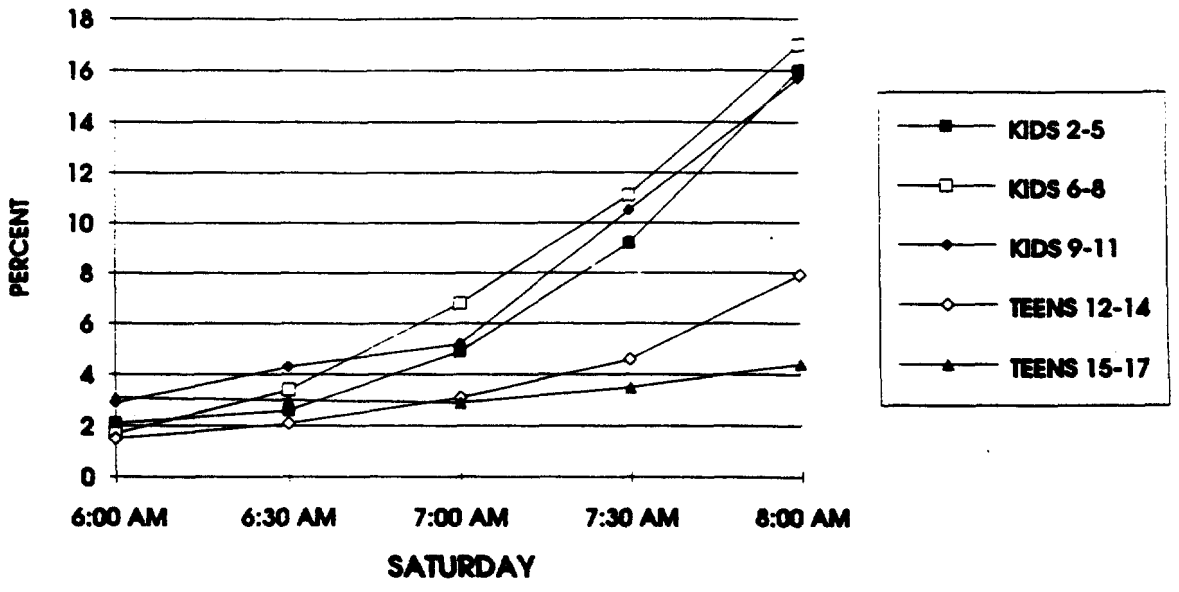
Source: Nielsen's National Audience Demographics, Vol. 1, November 1995

TV Usage By Kids and Teens, 6 AM to 8 AM For Mon.-Fri.; Sat.; and Sun.

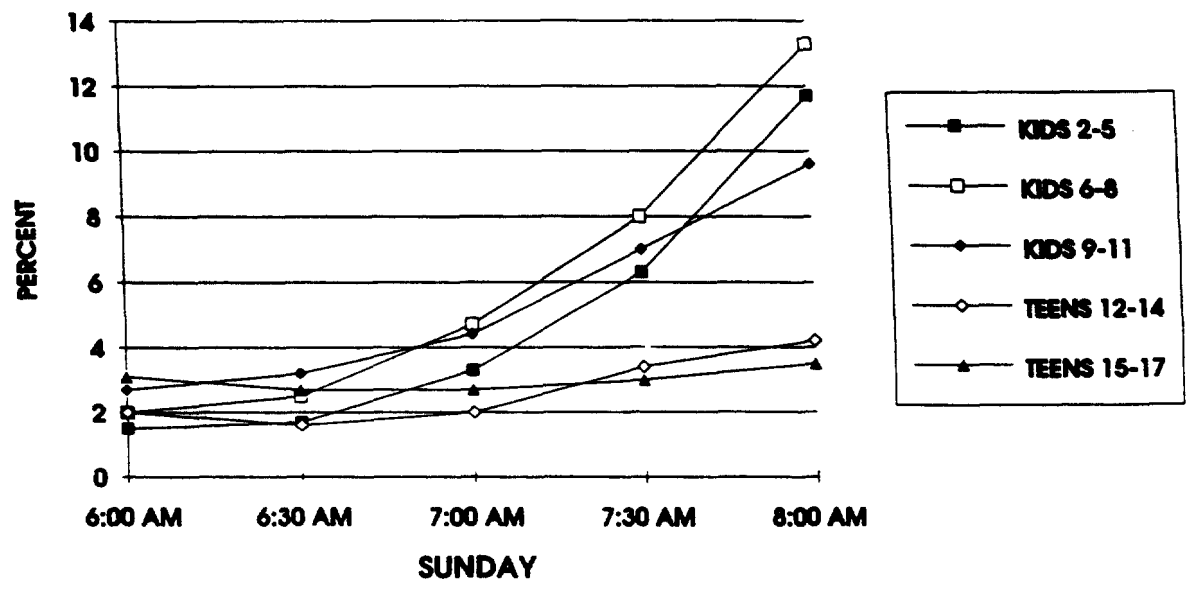
Source: Nielsen's National Audience Demographics, Vol. 1, November 1995



MONDAY -- FRIDAY



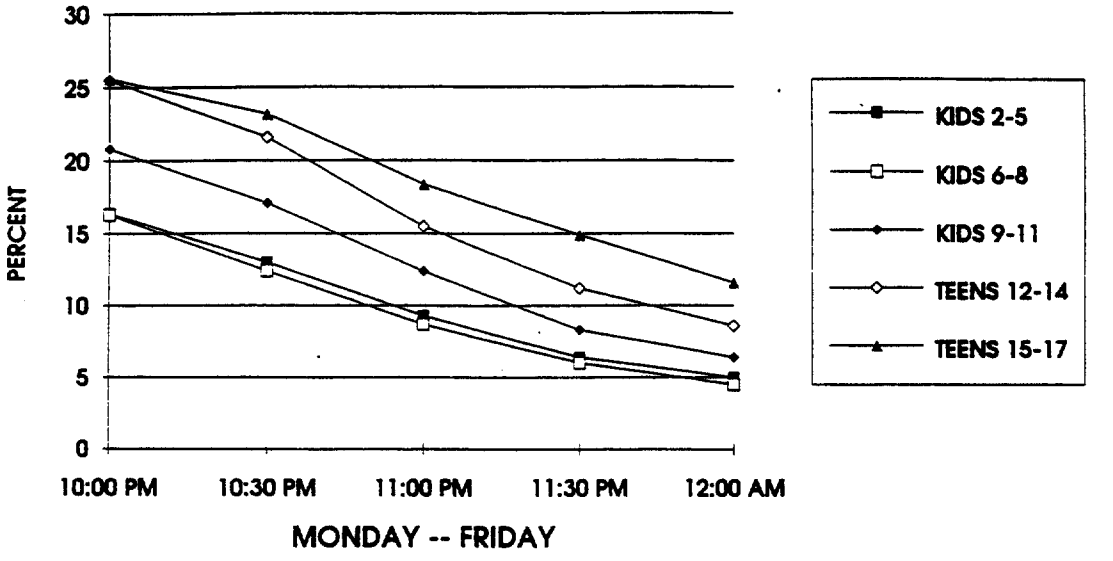
SATURDAY



SUNDAY

TV Usage By Kids and Teens, 10 PM to 12 AM For Mon.-Fri.; Sat.; and Sun.

Source: Nielsen's National Audience Demographics, Vol. 1, November 1995



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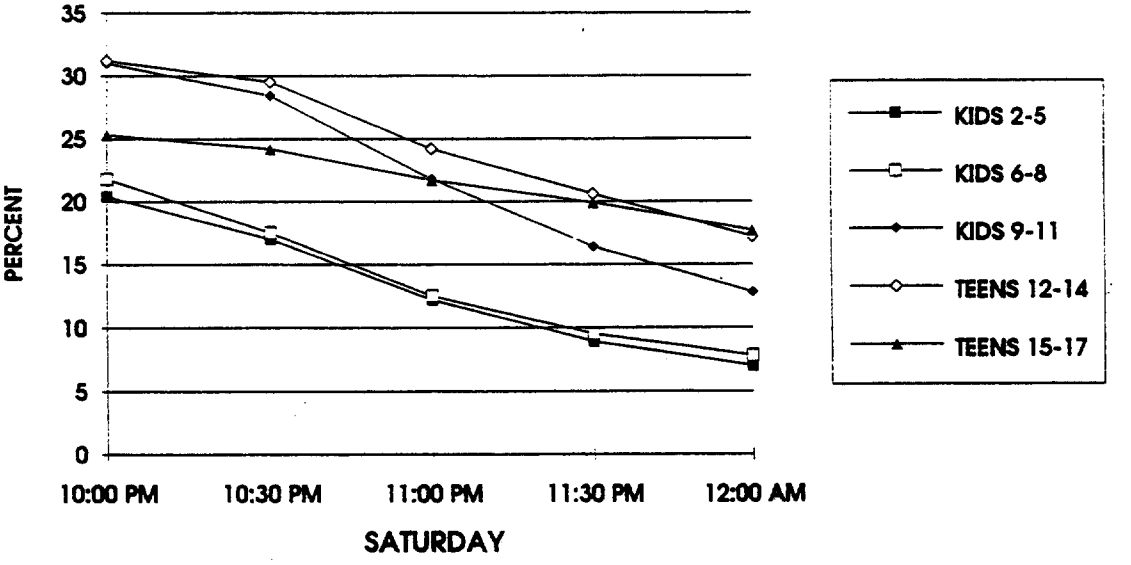

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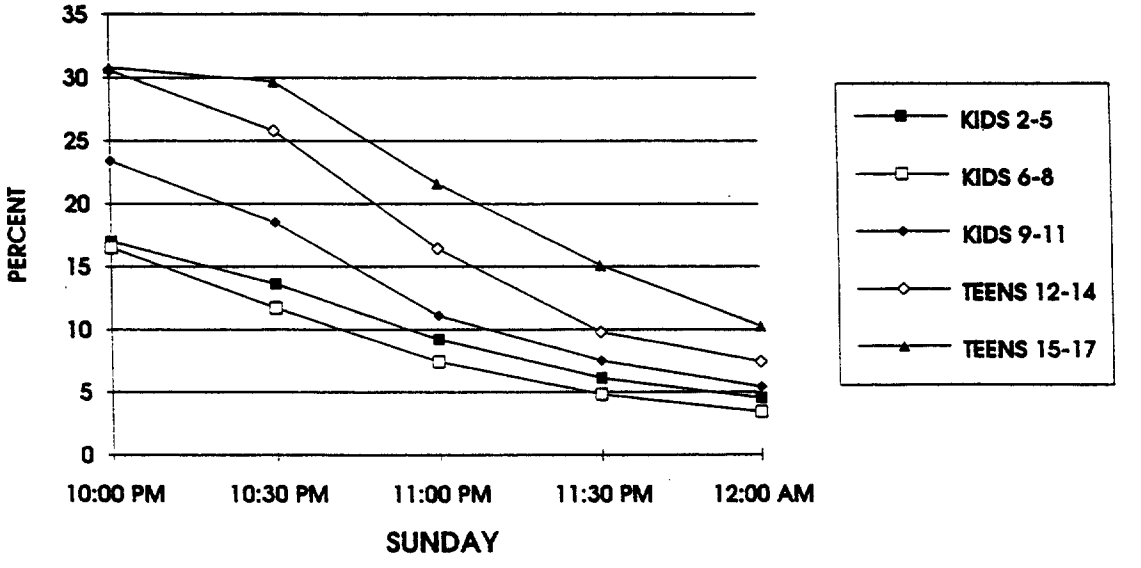

SUNDAY

CONCURRING STATEMENT OF COMMISSIONER JAMES H. QUELLO

Re: Report and Order on Children's Television Programming Rules

I am concurring with the Report and Order today to end a contentious impasse at the FCC. For some time I have believed that three hours of children's programming per week is a reasonable number, but I was – and still am – concerned with establishing a precedent for future First Amendment incursions.

I was particularly upset when I read the initial draft of the Report and Order. It represented an FCC exercise in overregulatory micromanagement that I could not accept, and a heritage that I refused to leave.

Not so this new Report and Order. The most overreaching features of the original draft are gone, and I find enough flexibility in the rules to permit my concurrence in their adoption.

Are the rules as flexible as I personally would like them to be? No. For example, I would have preferred that the definition of "core" programming include programs that are not regularly scheduled on a weekly basis, as well as programs that are less than thirty minutes in length. Collectively, the elements of the way we define the "core" programming obligation could actually disincent the broadcast of diverse types of children's programming.

But the shortcomings in what this version <u>does</u> contain are, in my judgment, counterbalanced by what this version <u>does not</u> contain. This Report and Order, unlike the prior draft, no longer contains language that would overturn current broadcast law, enshrine even more processing guidelines as the wave of the future, and establish a premise for fastening other types of outdated regulatory regalia on broadcasting. Nor does it contain the more teeth-grindingly intrusive features of the original set of rules, like independent program advisory committees. And, unlike the draft rules, the rules we adopt today are apparently flexible enough for broadcasters to deal with. All of this enables me to concur in adopting this Report and Order.

And I am pleased to do so in order to put this chapter of Commission history behind us. To be sure, the child audience stands to benefit from the result of our efforts today. So do we, to the extent we have come to a more acute realization of the need to reason and be reasonable in the course of our efforts.

So the child audience gains, and we hopefully will all gain as well. Now, what have broadcasters gained? They have, undoubtedly, had a troublesome issue resolved in a satisfactory way. But any short-term relief is, in my judgment, appropriately seasoned

by perceiving the possible price of what they have bought.

Broadcasters have dodged what otherwise would have been, in my judgment, a catastrophic First Amendment bullet. But my pleasure is tempered by what is embodied in statements like this one, taken from paragraph 154 of today's Report and Order: "It is entirely consistent with the First Amendment to ask trustees of the public airwaves to pursue reasonable, viewpoint-neutral measures designed to increase the likelihood that children will grow into adults capable of fully participating in our deliberative democracy."

I have no quarrel with this statement insofar as the Children's Television Act embodies it as the will of the Congress and our action today carries out Congress' intent. But the logic of this statement could be used by future Commissions to apply similar quantitative programming requirements to other types of programming under the public trusteeship standard, even without Congressional direction. For example, if we accept this statement at face value we could also require public airwave trustees to present stipulated amounts of news, or public affairs, or political broadcasting. For purposes of today's decision, the statement is what the lawyers call dicta; but tomorrow it could be the basis for yet another program quantification rule.

So while I agree that today is a day to feel a sense of relief, even of accomplishment, it may also be a day for some sober reflection. For while we have taken a step forward in eliminating an obstructive FCC impasse with this item, it could open the door for future objectionable First Amendment incursions against broadcast speech.

SEPARATE STATEMENT
OF
COMMISSIONER SUSAN NESS

Re: Children's Television Programming Report and Order

> *If I had it to do over again, I would concentrate every effort on improving children's television. For, as Gabriela Mistral, the Chilean poet who won the Nobel prize wrote, 'We are guilty of many errors and faults, but the worst crime is abandoning our children.'*
>
> -- Newt Minow, former FCC Chairman

Today this Commission embraces the wisdom of former Chairman Minow. At long last, we are clarifying the level of expectation attached to broadcasters' responsibility to serve the educational and informational needs of children. Almost thirty years after Action for Children's Television began its quest to improve broadcasters' service to children, and six years after Congress advanced that effort with enactment of the Children's Television Act, we are now empowering parents, teachers, and broadcasters alike, to act upon their best impulses as guardians of our nation's youth.

> *Television can be a strong and positive force. It can help children to learn. It can reinforce rather than undermine the values we work so hard to teach our children.*
>
> -- President Clinton

Free, over-the-air broadcasting plays a unique role in this country. Even today one-third of households do not subscribe to cable, and these are disproportionately low-income families. Moreover, most of the viewing on cable is of retransmitted broadcast signals, and many cable subscribers do not subscribe to the program tiers or a la carte offerings that feature educational and informational programming.

Broadcasters enjoy special privileges, including the use of valuable public airwaves, which carry with them special responsibilities. Today's ruling reinvigorates that public interest compact. And importantly, today's ruling provides broadcasters with the guidance and the clarity they need to fulfill those responsibilities.

> *I believe that we need your help, and that of your Commission. I'm probably running in the face of millions of dollars of lobbying, but I believe our industry needs a strong advocate on behalf of the public . . . . Whether it's children's*

television [or certain other topics], please, keep us all honest. We're capable of doing the right thing. We only need to be reminded. Constantly.

-- Letter from TV station executive

Today, we tangibly define the "core" children's programming that all broadcasters must provide, with an emphasis on regularly scheduled programs of standard length, aired during hours that significant numbers of children are in the audience. In turn, we require broadcasters to specify the target audiences and educational purposes of the programs they air to fulfill their Children's Television Act responsibility. We require that these programs be identified as educational at the time they are broadcast and in information provided to television program guides. These measures will facilitate meaningful, real-time dialogue between broadcasters and their communities about children's programs; they will enable parents to select the shows they believe to be most beneficial to their children; and they will reduce the likelihood that this agency will be called upon, at license renewal time, to second-guess assertions that particular shows are educational.

The central feature of today's ruling is a three-hour safe harbor processing guideline, which I have long favored. It offers broadcasters the twin advantages of certainty and flexibility, and it is First Amendment-friendly. It is certain, for it establishes a clear level of expectation: three hours -- a mere two percent of the broadcast week. It is flexible, for broadcasters may exercise their creativity to fulfill their commitment in ways that are not susceptible to purely quantitative evaluation. And it is First Amendment-friendly, precisely because it combines these attributes.

Broadcasters will no longer have to guess what is expected of them, and we will remedy the current marketplace distortions caused by excessively ambiguous rules. Broadcasters who strive to satisfy their responsibility to children will no longer face competitive pressure to emulate those who make only trivial efforts; the three-hour benchmark will apply to everyone.

We hope and expect that many broadcasters will choose to air more than three hours of core programming, and that they will continue to serve children through non-core programming as well. The three-hour benchmark is a floor, not a ceiling. But a three-hour-per-week commitment to core programming is all that is necessary to demonstrate compliance with the Children's Television Act -- and to receive expedited processing by the Mass Media Bureau at license renewal.

As I have often noted, a strict three-hour quota based on standard-length, regularly scheduled programming would be too restrictive. The educational and informational needs of

children can also be served by specials, short-form programs, public service announcements, and programs aired outside of the "core" hours. There must be -- and in "Category B" of our new rules there is -- room for broadcasters to offer somewhat less than three hours if their other programming activities, taken together with the core programming, represent an equivalent commitment to meeting the educational and informational needs of children. The focus here is necessarily on programs with a significant purpose of educating children, not general audience programming that has some educational value.

Of course, the "comparable commitment" called for under Category B cannot be evaluated simply by adding up minutes. Educational programs aired before 7:00 a.m. cannot be credited the same as those aired during the hours we have designated as core. Airing shows that are specifically designed to meet the educational and informational needs of children during prime time -- when the potential audience is at its peak -- is an extra effort entitled to extra credit. Category B has the flexibility to weigh these kinds of factors.

Those who distinguish themselves through significant non-core efforts that are specifically designed to educate children, in addition to core efforts of nearly three hours, receive the same expedited staff approval as those who air three hours of core programming. It is important to emphasize that Category B is intended for those whose level of commitment is at least equivalent to the safe harbor, but who choose to discharge their responsibility in slightly different ways. Category B is <u>not</u> a safe haven for those whose commitment is lacking.

> *The President has been working hard to establish a minimum requirement for television broadcasters: all that we are asking is for three hours a week of educational, child-friendly programming. I don't think that is too much to ask.*
>
> -- First Lady Hillary Clinton

The American public has voiced its support for this fortified commitment to quality children's programming. During the course of this proceeding, the Commission received more than 20,000 letters urging stronger implementation of the Children's Television Act. A majority of members of the House of Representatives, a third of the Senate, and even President Clinton wrote in support of a three-hour standard. So did the National PTA, the National Association of Elementary School Principals, the National Association for the Education of Young Children, and numerous other national, state, and local organizations.

Today we are not writing the end of the children's television story; this is only the preface. Now it is up to the writers, directors, actors, network executives, station managers, syndicators, schedulers, advertisers, parents, and other concerned citizens to ensure that the

promise to America's children is fulfilled.

I predict that the near-term future will bring an abundance of children's programming that is innovative and exciting, as well as educational and informational. Already, the creative and broadcast communities are rising to the challenge -- and seizing the opportunity. We can reasonably hope that foundations will direct financial resources to the creation of innovative educational shows, that newspapers will find it worthwhile to feature educational listings in prominent ways, that advertisers will find ways to do well by doing good, and that broadcasters will compete as aggressively to serve children for a few hours a week as they do for ratings.

For too long, the children's television debate has focused on the FCC. Now that our job is done, the focus must shift to those who must develop and schedule programming that is educational and entertaining.

Broadcasters, it's time to stand and deliver.

SEPARATE STATEMENT OF

COMMISSIONER RACHELLE B. CHONG,

CONCURRING IN PART

Re: *Policies and Rules Concerning Children's Television Programming, MM Doc. No. 93-48*

It has been a long and tortuous road to get us all to this decision today. Reaching this agreement has been like making sausage. It was not a pleasant or pretty process. The end result is palatable, however, and I am pleased that at last we have been able to achieve this order together.

Introduction

Much of this decision is right on target, though I fear that some of it misses the mark. While I fully support most of what we do today, I reluctantly concur in the portion of the rule that creates a highly restrictive definition of "core programming." I also express serious reservations about our choice of using quantitative processing guidelines.

I strongly support our strengthened information requirements that will empower parents by bringing them helpful information through program guides, on-air announcements, and increased reporting requirements. In addition, I support the concept of revising our definition of "core" educational and informational programming, to make clear our expectation that broadcasters must air programming "specifically designed" to serve the educational and informational needs of children. In my view, these actions provide appropriate incentives for broadcasters to fulfill the goal of the Children's Television Act of 1990,[1] "to increase the amount of educational and informational broadcast television programming available to children . . . "[2]

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[1] Pub. L. No. 101-437, 104 Stat. 996-1000 (codified at 47 U.S.C. 303a, 303b, 394) [hereinafter CTA or Act].

[2] Children's Television Act of 1989, Senate Comm. on Commerce, Science and Transportation, S. Rep. No. 227, 101st Cong., 1st Sess. 1, at 1 (1989) [hereinafter Senate Report].

I have some doubts about some aspects of this decision, however. While our revised definition of "core" programming is clearer and will aid in our CTA administration efforts, I believe that some aspects of the definition are too narrow. I would have preferred a more expansive definition. In my view, a broader definition would be more faithful to the spirit of the Act and would more reasonably credit more varieties of "specifically designed" programming. I worry that, by regulatory fiat, we may produce unintended consequences on the children's programming marketplace.

Finally, I voice serious reservations about today's decision to establish a quantitative processing guideline. Although I agree that a processing guideline creates an easy-to-administer regulatory method to determine broadcaster compliance with the CTA, I remain doubtful that quantification of any aspect of a broadcaster's public interest obligation is wise as a matter of public policy. Congress did not direct us to adopt this one-size-fits-all approach; in fact, the legislative history makes it clear that Congress was not mandating a quantitative approach. I reluctantly concur to this portion of the order, however, and merely voice concerns about where this path may take us in the future if we are not vigilant.

A. Improving Children's Educational and Informational Television Requires a Partnership Between Broadcasters, Community, and Government

It is my general philosophy that improving children's educational and informational television requires a partnership between the broadcast industry, the community and government. The industry's role is to be responsible and responsive to the community about what they air for children. The Act charges each broadcaster with the responsibility of serving its child audience with educational and informational fare. I believe this means that a broadcaster should actively ascertain the needs of the children in its audience, and provide programming that is responsive to those needs. It should provide information to parents about the children's educational and informational shows they air, so that parents may easily find them and encourage their children to watch.

The community's role, especially parents, is to be actively involved in their children's television viewing. It is unwise for parents to use television as a babysitter and expect government to be a substitute parent or school teacher. Today, we give parents more tools to be better informed about when educational and informational shows will be aired, to get information about which shows contain educational and informational themes, and to monitor the performance of the stations in their community.[3]

[3] I encourage parents to take media literacy courses so that they can help their children watch television critically, and discuss with them what they are viewing as a means of teaching their children positive values and morals.

Government also has a key role to play. The Commission has oversight over all broadcasters as public trustees of the nation's airwaves, and implements the Children's Television Act. It is our job to enumerate a broadcaster's responsibilities under the CTA and ensure compliance at license renewal time in a reasonable fashion.

It is my view that government has a responsibility to create a framework which accomplishes the following: (1) provides incentives for the industry to provide children's educational and informational programming; (2) respects a broadcaster's constitutional right to make programming decisions independent of government mandates; and (3) provides parents with enough information about qualifying programming so that they are empowered to make more informed viewing choices for their children. Should we succeed in crafting a framework that accomplishes all of the above, I believe the Commission will have done its job under the CTA. This sensible and flexible framework is what I have been working towards in this proceeding.

B. Increased Public Information Empowers Parents

I have been a strong proponent of the many public information initiatives we adopt in this item. These initiatives will get more information to the public, especially parents, about what individual broadcasters are doing to fulfill their CTA-obligations. The initiatives are also designed to encourage dialogue between broadcasters and their communities. Improved public access to information allows us to rely more on marketplace forces than on government intervention to achieve the goals of the Act. Improved public access also enables community members to help us enforce the statute by monitoring each station's performance. In this way, judgments about the quality of a licensee's programming will be assessed by the community, and not by government.

By our actions today, we hope to stimulate more and better quality interaction between broadcasters and their communities. First, our new rules ensure that parents have more ways to find out what children's educational and informational programming their local stations are offering. We require our licensees to submit to program guides lists of their "core" programming. We hope that producers of program guides will print this important information so that it is easier for parents to find "core" programs. We also have imposed a requirement as to on-air identification of "core" programming. Both measures are designed to increase the information parents receive, so that they can encourage their children to watch programming.

Second, we have provided improved access to information by the public through standardized reporting and other means. For example, we require a broadcaster to list its "core" programming in a separate Children's Television Report in its public file and to let members of the public know about this report. The community can then easily locate this information and assist the Commission in enforcing the Act. I believe that these public information initiatives help promote broadcaster accountability to its community, consistent with a broadcaster's responsibilities as a public trustee.

C. *Our Core Programming Definition May Be Too Narrow and Have Unintended Effects*

At the outset, I note my general support for a strengthened definition of "core" programming. Our record shows that there has been some confusion among our licensees about what types of programming qualify as "specifically designed" to serve the educational and informational needs of children. Our prior definition was apparently overbroad.[4] We have heard complaints that some broadcasters have tried to claim as "specifically designed" programming what is clearly entertainment or general audience programming.

To cure this problem, we have provided broadcasters with a definition of programming that clearly qualifies as "specifically designed" to serve children's educational and informational needs ("core" programming). Our new rule, Section 73.671, sets forth very detailed requirements that a program must meet to be treated as "core" programming under our new processing guideline: (1) the program has serving the educational and informational needs of children ages 16 and under as a significant purpose; (2) it is aired between the hours of 7 a.m and 10 p.m.; (3) it is regularly-scheduled weekly programs; (4) it is at least 30 minutes in length; (5) the educational and informational objective and the target child audience are specified in writing; and (6) instructions for listing the program as educational/informational, including an indication of the age group for which the program is intended, are provided by the licensee to publishers of program guides.

While I support most factors of this new definition, I have concerns that the third and fourth factors may go too far.[5] As to the third factor, I can understand why we wish to promote "regular scheduling," but I would rather not impose the more restrictive "weekly" requirement. In my view, "regularly scheduled" can be interpreted more expansively to include, for instance, biweekly scheduling, monthly scheduling, or scheduling far enough in advance such that the program can be actively promoted and listed in the program guides for parents to see. Expanding the concept of regularly-scheduled in this way would allow broadcasters to get full credit under Category A of our processing guideline as "core" programming for such things as heavily-promoted hour long educational specials. There is no clear reason to exclude such specials from the concept of

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[4] Our prior definition was "programming that furthers the positive development of children 16 years of age and under in any respect, including the child's intellectual/cognitive or social/emotional needs." 47 C.F.R. § 73.671 Note.

[5] With regard to factor two, the time of day restriction, I agree that educational and informational programming will not serve the needs of children if it is aired at times when children are not in the audience. I further agree that, in general, 7 a.m. to 10 p.m. is a time period that is likely to maximize the number of child viewers. I would have expressly stated, however, that programming shown outside of this time frame could count as core, if the broadcaster included evidence that, in its market, the child audience at a particular hour was comparable.

"core" programming since they clearly serve the educational and informational needs of children and are likely to garner a substantial child audience. Indeed, Congress itself specifically mentioned such specials as the type of programming the CTA sought to promote.[6]

While this decision contends that weekly programming has certain advantages in terms of the ability to follow-up on themes and audience loyalty, I question whether these advantages suggest that a monthly educational program or a heavily promoted informational special for children should be treated as a "second class" program for staff processing purposes. Although "specifically designed" programming that does not qualify for "core" status still "counts" under Category B of the processing guideline, it counts for very little of the mandated three hour weekly average.

Similarly, I have concerns about our new rule's fourth factor which requires that the program be at least thirty minutes in length. During the course of this proceeding, I have viewed many outstanding examples of "specifically designed" educational and informational programming that are less than thirty minutes in length, e.g. five to fifteen minutes long. Given the varying attention spans of children depending on their age, I would have preferred that we not make judgments about what program lengths are more effective than others. I would have preferred that this fourth factor give broadcasters greater flexibility to include some short form programming. While it may be true at this time that short form programming is not currently included in program guides, I question whether it is wise to limit broadcasters' future creativity by this restriction.

To gain a perspective on the impact of the "core" programming definition, it helps to first review the statutory language and then to draw a simple picture resembling the circles on a dart board. The Act provides that at renewal time, the Commission shall "consider the extent to which the licensee . . . has served the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs."[7] Next, draw as a big circle the group of programming that the Act tells the Commission to consider at renewal time – a broadcaster's "overall programming" that serves the educational and informational needs of children.[8] Then, draw a slightly smaller circle within the first circle. This second circle

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[6] Senate Report at 7-8.

[7] 47 U.S.C. 303b (a)(2).

[8] This "overall programming" category consists of two subsets of programming: (1) "specifically designed" programming that serves the educational/informational needs of children; and (2) programming that is not "specifically designed" but still serves the educational/informational needs of children. An example of the latter may include a general audience show whose main plot takes up a topic such as teen pregnancy or an anti-drug theme, and seeks to educate or inform young viewers about the dangers and consequences of certain activities.

represents programming "specifically designed" to serve the educational and informational needs of children, which is a subset of "overall programming." Finally, draw inside that second circle a very small third circle, which represents the programming that meets the six factors of the "core" programming definition we set forth today. My point is that I believe we have drawn the smallest circle too narrowly by establishing an overly strict "core" definition. By doing so, we are leaving out worthy "specifically designed" programming in the second circle.

Looking back at the plain language of the statute, I see no Congressional intent to place such a narrow gloss on "specifically designed" programming. Indeed, the spirit of the statute seems to be the opposite; the Commission is specifically directed to consider "*overall* programming" that serves the educational and informational needs of children, in addition to "specifically designed" programming. The legislative history is in accord, and indicates that Congress did not intend to "exclude any programming that does in fact serve the educational and informational needs of children."[9]

In this item, we suggest that the availability of Category B processing cures any concern that our definition of "core" programming may be too narrow. There is some merit to this argument, but I think we ought to be realistic about the practical effect of our new rules on the actual production and airing of educational/informational children's programming. Under our processing guideline, broadcasters will have a strong incentive to air three hours of "core" programming *because this is a sure path to renewal.* Conversely, our scheme gives broadcasters little, if any, incentive to produce or air any programming that does not qualify as "core" programming. My fear is that broadcasters will be dissuaded from funding creative educational and informational programming that can capture children's imaginations but does not fit in our narrow "core" definition. For this reason, I would have preferred a more expansive definition, giving broadcasters more flexibility.

D. Issues Related to a Quantitative Processing Guideline

As a final matter, I feel I must express my continuing discomfort with quantification of the CTA obligation. I agree that a processing guideline is easy to administer and gives broadcasters more certainty about what they can do to ensure a pass on the CTA at renewal time. Moreover, the three hour benchmark is just a staff processing guideline that we put in place today; I emphasize that this staff processing guideline does not in any way prevent the Commission from considering all the pertinent circumstances of a broadcaster in an individual case. For these reasons, I am able to reluctantly concur.

I have consistently disfavored taking a quantitative processing guideline approach for a number of reasons. First, I have looked to Congress' intent as expressed in the plain language of the statute and its legislative history. The plain language of the Act does not

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[9] Senate Report at 17.

compel us to use a quantitative approach. The Act specifies that at renewal time, the FCC must evaluate the extent to which a broadcaster has served the educational and informational needs of children through its "overall programming" of the licensee, including that "specifically designed" to serve the educational and informational needs of children.[10] The Act also makes it clear that the Commission may consider nonbroadcast efforts of the broadcaster which enhance the educational and informational value of the programming to children. Finally, it states that we may also consider efforts to produce or support programming broadcast by another station in the broadcaster's market if it is core programming.[11]

Thus, it is my interpretation of this language taken as a whole, that, far from encouraging us to adopt a method of counting only some types of programming (e.g. core) for CTA compliance purposes, the Act directs the FCC to consider the "overall programming" efforts of the licensee. The plain language of the Act states that we may even consider some *nonprogramming* efforts which are relevant to children's educational and informational needs. In my view, the plain language of the statute supports a "total efforts" type of approach that I had proposed for our new rules.

I believe the legislative history of the Act supports a "total efforts" type of approach too. The Senate Report reads in pertinent part: "[The Act] does not exclude any programming that does in fact serve the educational and informational needs of children; rather the broadcaster has discretion to meet its public service obligation *in the way it deems best suited.* The provision requires that television broadcasters act in the public interest in this important regard and that the FCC at renewal obtain assurance that they have done so."[12]

The legislative history further confirms that Congress did not expect the FCC to adopt a quantitative approach. "The Committee does not intend that the FCC interpret this section as requiring a quantification standard governing the amount of children's educational and informational programming that a broadcast licensee must broadcast to have its license renewed . . . The Committee believes that a broad range of programming can be used to meet the standard of service to the child audience required by this section."[13]

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[10] 47 U.S.C. 303b (a)(2).

[11] 47 U.S.C. 303b (b)(2).

[12] Senate Report at 17-18 (emphasis added).

[13] Senate Report at 23. *See also* "The legislation does not require the FCC to set quantitative guidelines for educational programming, but instead, requires the Commission to base its decision upon an evaluation of a station's overall service to children." 136 CONG. REC. H8536, 8537 (daily ed. Oct. 1, 1990) (statement of Rep. Markey).

My second reason for disfavoring a quantitative approach is that such an approach reduces a broadcaster's incentive to engage in dialogue with its community about its children's needs. By telling broadcasters they can get an automatic "pass" at the FCC by airing three hours a week of core programming, we diminish the incentive for the broadcaster to engage in dialogue with its community about the particular needs of its children. Clearly, this would be contrary to the goal of our many public information initiatives we have taken in this item.

My third reason for disfavoring quantification is that such a standard may set an uncomfortable precedent contrary to the principles of the First Amendment. My thinking on this subject is driven by my deep respect for the concept of freedom of speech and its importance in our democratic society.[14] I fear that a quantitative approach as to particular categories of programming content may start us down a slippery slope of undue government intrusion in a broadcaster's programming discretion. For example, if we are to accept the argument that children's educational television is so compelling a government interest that broadcasters should be ordered by government to air three hours a week, would it set a precedent for a future Commission to decide that election or particular health information are equally compelling government interests, and that therefore broadcasters should be ordered to air two hours per week of these categories of program content?

With these concerns in mind, I concur in the quantitative approach towards one aspect of a broadcaster's public interest obligations that we adopt today. I do so in large part because we have a specific statute that charges the Commission with considering CTA efforts in processing renewal applications. I give fair notice, however, that I remain skeptical that quantification of any other aspect of a broadcaster's public interest obligation is wise as a matter of public policy.

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[14] The legislative history reflects similar concerns. "The nature of the content offered is up to the discretion of the broadcaster. Leeway is granted in deference to broadcasters' first amendment rights, of course, and with the expectation of good-faith judgments." 136 CONG. REC. S16340-02 (daily ed. Oct. 22, 1990)(statement of Sen. Wirth).